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Viewing cable 07BUENOSAIRE1352, C) GOA FOILS ETON PARK INVESTMENT BID: CORRUPTION

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Reference ID	Created	Released	Classification	Origin
07BUENOSAIRE1352	2007-07-15 22:37	2011-08-30 01:44	CONFIDENTIAL	Embassy Buenos Aires

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WHA FOR WHA/BSC AND WHA/EPSC

E FOR THOMAS PIERCE

EB/CBA FOR FMERMOUD

PASS FED BOARD OF GOVERNORS FOR PATRICE ROBITAILLE

EX-IM BANK FOR MICHELE WILKINS

OPIC FOR GEORGE SCHULTZ AND RUTH ANN NICASTRI

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SUBJECT: (C) GOA FOILS ETON PARK INVESTMENT BID: CORRUPTION
AND ECONOMIC NATIONALISM ALLEGED

REF: A. BUENOS AIRES 85

[1](#)B. BUENOS AIRES 978

[1](#)C. BUENOS AIRES 844

[1](#)D. BUENOS AIRES 1278

[1](#)E. BUENOS AIRES 65

[1](#)F. BUENOS AIRES 1128

Classified By: Ambassador E.A. Wayne. Reasons 1.5 (B,D)

Summary

[1](#)1. (C) Major U.S. investment fund Eton Park's two year effort to buy a minority stake in Argentina's regulated electricity transmission grid from Brazil's Petrobras offers a snapshot of GoA machinations to favor local -- and presumably more easily controlled -- capital investment in strategic assets. It also offers insight into how less than transparent

mechanisms have reportedly been used by the GoA Planning Ministry to reward friends and allies of the Kirchner administration. Eton Park officials outlined to Ambassador their legal efforts to overturn the GoA's February 2007 rejection of Eton Park's bid in favor of a competing joint bid by Electro Ingeneria, an Argentine construction company close to the Kirchner administration, and a state-owned energy company. The GoA claims that Eton Park had neither experience in the sector nor the long-term commitment required to run a public service company effectively.

¶2. (C) Eton Park alleges that Planning Minister Julio De Vido stands to directly benefit from Electro Ingeneria being selected and so he interfered to stymie Eton Park's efforts to have its bid reconsidered. Eton Park also alleges that ABN-AMRO bank agreed - at the behest of Venezuelan President Chavez and against the bank's better judgment - to fund a loan to support Electro Ingeneria's counter-offer. According to Eton Park, Chavez made this financing a quid pro quo for ABN to continue to do business with the GoV. Eton Park is currently considering an appeal to the Argentine Supreme Court. Other sources tell us that, irrespective of whatever corruption may be involved, top GoA officials want national businessmen to control key economic sectors and that, had Eton Park played its cards a bit differently, it might have been allowed to be a major shareholder in an "Argentine" appearing entity. End Summary.

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GoA Forces Petrobras to Divest Transener Stake
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¶3. (SBU) Ambassador met July 10 with Dirk Donath, New York-based Managing Director of U.S. investment fund Eton Park and with Federico Ravazzani, local Eton Park representative and head of Buenos Aires-based Pent Capital, to review the state-of-play of Eton Park's efforts to purchase a minority 26% stake in Argentina's regulated national electricity transmission grid from Brazil's

Petrobras.

14. (U) In 2003 Petrobras acquired Pecom Energa from the

Perez Companc Group, becoming the second largest oil producer in Argentina. One of the numerous Argentine energy sector assets held by Pecom Energa was its 50% stake in Compania Inversora en Transmision Electrica ("Citelec"), the controlling 52% shareholder in Argentina's electricity transmission company Compana de Transporte de Energia Elctrica S.A. ("Transener"). Due to antitrust considerations, GoA authorities ordered Petrobras to divest its interests in Transener and other electricity transmission companies. In September 2005, Eton Park Capital Management began discussions with Petrobras to acquire its 50% equity stake in Citelec and a 20% stake in Yacylec.

15. (U) Transener is Argentina's largest electricity transmission company (95% market share) which also controls Transba (electricity transmission in the province of Buenos Aires) and Transener International (a foreign subsidiary conducting non-regulated electricity transmission businesses in Brazil, Uruguay, Peru, Paraguay and Panama). Yacylec is an Argentine company responsible for the operation and maintenance of 281 km of electric lines between the Yacyret Hydroelectric Power Station (Corrientes province) and Resistencia (Chaco province).

Eton Park Agrees to Purchase Petrobras' Stake

16. (U) Eton Park, one of the world's largest investment funds with over \$5 billion under management, is managed by a group of former Goldman Sachs partners headed by Eric Mindich. The fund acquired significant investments in power and utilities

elsewhere in Latin America through its purchase of a stake in Prisma, the company that acquired Enron,s international portfolio from Enron,s creditors in early 2006.

17. (U) In August 2006, Eton Park and Petrobras agreed on terms and conditions for Eton Park to acquire Petrobras' entire stake in Transener and signed a stock purchase agreement for Eton Park to pay \$54 million for the Citelec shares and \$6 million for the Yacylec shares. Eton Park made a \$12 million, 20% down-payment to Petrobras with the stock purchase agreement to become effective once regulatory approval was granted by the GoA's electricity regulator, the Ente Nacional Regulador de la Electricidad (ENRE); by the GoA Ministry of Economy's Secretary of Energy Daniel Cameron; and by the GoA's anti-trust body, the Comision Nacional de Defensa de la Competencia (CNDC).

GoA: Maintaining Argentine Operating Control

18. (SBU) Petrobras' local partner in Transener was Pampa Holdings (formerly the Dolphin Group), an Argentine-managed investment fund controlled by prominent entrepreneur Marcelo Mindlin. Eton Park's Donath estimates that 90-95% of Pampa's capital is, in fact, held by U.S. and European investors, with Eton Park itself one of Pampa Holding's three largest investors. Pampa and Eton Park were to share control of Transener once the Eton Park acquisition won regulatory

approval. To address GoA concerns about maintaining Argentine operating control of the entity, Eton Park had granted Pampa the right to name the President and CEO of Transener. According to Eton Park, Pampa had developed a close working relationship with Eton Park, was supportive of Eton Park,s acquisition of the Petrobras stake in Transener,

and had made this known to Planning Minister De Vido and to President Kirchner on several occasions.

19. (C) By September 2006, Eton Park had presented all required documentation to GoA regulatory agencies involved. According to Eton Park, both the Energy Secretary and the CNDC had told them unofficially that they had no objection to the transaction going forward. Eton Park then met numerous times with ENRE officials and also held private meetings with President Kirchner and with Minister De Vido during September 2006 UNGA meetings in New York, and again with Minister De Vido November 17 in Buenos Aires. At that last meeting, Eton Park reported De Vido confirmed there were no/no GoA objections to the transaction and that he believed all regulatory approvals would be forthcoming shortly.

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GoA 180: Electro-Ingenieria as National Champion
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10. (C) During January 2007 conversations with EconCouns, Eton Park expressed concern at ongoing delays in regulatory approval and market rumors that Planning Minister De Vido had decided -- late in the game -- to go back on his earlier assurances to Eton Park and instead favor a rival bid for Petrobras' stake in Transener by Cordoba-based construction company Electro Ingenieria (EI). Eton Park noted that EI's book of public infrastructure project business, including the construction of electricity transmission lines for Transener, had had grown dramatically during the Kirchner administration; that De Vido's son worked for EI, and that De Vido himself likely had a "personal stake" in EI's success. Eton Park also noted that EI principal Gerardo Luis Ferreyra was an ex-Montonero guerilla who, during the 1976-82 military dictatorship, had shared a cell with current Presidential Legal and Technical Secretary (and close confidant) Carlos Zanini. Eton Park noted that Ferreyra had accompanied De Vido (along with other Argentine businessmen) to Germany in January 2007 and they believe that, during that trip, the

decision was taken to give the deal to EI.

¶11. (C) Ambassador Met January 15 with Planning Minister De Vido to raise a number of U.S. company advocacy issues, including Eton Park (Ref A). When Ambassador noted Eton Park's concerns over ongoing delays in regulatory approval, De Vido replied that he understood Petrobras was still in the process of accepting bids from potential buyers. Eton Park later confirmed that De Vido was well aware that Eton Park had signed a binding stock purchase agreement with Petrobras months earlier. At Eton Park's request, an advocacy letter from Ambassador to De Vido was sent in late January 2007 noting that final GoA approval of Eton Park's investment in Transener would be seen as a positive signal by the GoA to the institutional investment community in the United States. The letter also noted that, at a time when Argentina was

seeking expanded foreign direct investment in strategic sectors related to infrastructure and energy, Eton Park's interest should be welcome.

¶12. (SBU) On January 29, Argentina's largest daily, Clarin, reported that the GoA was considering rejecting the sale of Transener to Eton Park in favor of a new competing joint bid by Electro Ingeneria and recently formed state-owned energy company ENARSA. On February 8, President Kirchner reacted angrily to follow-on press reports in Clarin of the existence (but not the text) of the Ambassador's advocacy letter on behalf of "a U.S. company." Kirchner stated that his administration was transparent and that Argentina was not a "banana republic" that could be pushed into making decisions.

On February 9, the CNDC officially rejected Eton Park's bid, claiming that it had neither "roots" nor experience in the sector and that, as an investment fund, it did not have the long-term commitment required to run a public service company effectively. Local media interpreted the President's

statement and the subsequent CNDC opinion as a GoA effort to retain national control of a strategic energy sector. Media also noted that the Electro Ingeneria/ENARSA consortium would have to seek public or private sector funding in order to match Eton Park's bid.

¶13. (C) Eton Park appealed the CNDC ruling in March 2007 to the Argentine Civil and Commercial Appeals Court, confiding to EconCouns that its legal counsel considered the CNDC's ruling weak and easily overturned. However on June 22, the 3-judge appeals court rejected Eton Park's appeal, opening the way for Electro Ingeneria's bid to go forward. The Appeals court judge ruled that the GoA had "complied with its duty to safeguard the public interest," and also argued that Eton Park had not demonstrated sufficiently that it had electricity sector experience.

(C) Eton Park Alleges Foul Play

¶14. (C) In a July 10 meeting with the Ambassador, Eton Park principals noted that they had heard from reliable sources that an Argentine Appeals Court ruling favorable to Eton Park was originally to have been issued in early June. With this same information, Eton Park alleged, Electro Ingeneria filed for a two week stay that permitted Planning Minister De Vido sufficient time to have the Appeals Court ruling re-written. Some in the GoA had been able to influence Appeals Court judges, Eton Park alleged, by threatening to publish recorded phone conversations that would have been embarrassing to some or all of the judges on the appeals panel.

¶15. (C) Earlier in May, confident that the Appeals ruling would be favorable, Eton Park had floated a proposal to the GoA to address its concerns about keeping Transener under "national control": Eton Park had approached Gerardo Wertheim, principal of the prominent Argentine Wertheim family group that has substantial interests in Argentine

financial services, natural gas transportation infrastructure and paper mills. To provide a local face to the transaction, the Wertheim group agreed to hold a 51% voting share in an

Eton Park/Wertheim partnership, while Eton Park provided 80% of the investment capital. Eton Park principals called the proposed Transener ownership of 50% Werthiem /Eton Park and 50% Pampa Holdings a ""dream team"" that was well received in informal discussions they held with both Chief of Cabinet Minister Fernandez and Legal and Technical Secretary Zanini in late May. According to Eton Park principals, Fernandez took the Eton Park proposal to President Kirchner, who then consulted with Planning Minister De Vido. De Vido allegedly told the President that backtracking on the GoA's original decision would make the President look bad.

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(C) GoV Pushes ABN to Finance Electro Ingenieria
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¶16. (C) The difficulty that an Electro Ingenieria /ENARSA partnership faced in obtaining private funding for its proposal to match Eton Park's bid -- or the need to seek financing from state-owned bank -- was long seen by analysts and media as the Achilles heel of this group's joint bid. Eton Park principals said that the Jorge Britto, President of Banco Macro (a fast growing private Argentine bank close to the GoA) had told them the some in the GoA were pushing ""allied"" private banks to fund the deal. Eton Park principals noted that ABN-AMRO bank had decided to fund a \$60 million bridge loan to support the deal and that, according to ABN loan officers they spoke with, ABN's funding of this deal was against the bank's better judgment but done at the behest of Venezuelan President Chavez who made this deal a quid pro quo for ABN continue to do business with the GoV.

¶17. (C) Confessing that the saga of their attempt to purchase a stake in Transener was "'worthy of a cheap novel,'" Eton Park principals told Ambassador they are not ready to give up. Still confident that the Appeals court ruling is fundamentally flawed, Eton Park is considering appealing the adverse ruling to the Supreme Court. They admitted that Eton Park's position was weakened somewhat by the June 29 expiry of their purchase contract with Petrobras, but noted that Eton Park has declined to take back its \$12 million deposit from Petrobras to maintain its claim. Eton Park also noted the possibility of local media investigative reports on the transaction coming out soon. In the current scandal-ridden political environment, Eton Park suggested, such media attention could push the GoA to again reverse course.

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(C) Comment: Corruption and Economic Nationalism

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¶18. (C) Minister De Vido's Planning Ministry has increasingly concentrated control over GoA authorization and funding of major domestic energy and transportation infrastructure projects. The Planning Ministry also controls rapidly expanding GoA subsidy payments to public service providers in the energy and transportation sectors. The

less-than-transparent mechanisms used by the GoA to award infrastructure projects and to distribute subsidy payments, along with high profile and persistent media attention to a number of procurement and financing scandals (including the ongoing Skanka gas pipeline scandal that post has reported on extensively, Refs B and C), have fed public perceptions that some senior members of President Kirchner's self-described

"manos limpios" (clean hands) administration are corrupt. The rapid rise of Electro Ingeneria as a GoA contractor during the Kirchner administration and the GoA's dogged backing of its bid to buy Transener appear to support Eton Park allegations of Planning Ministry interference. However, Embassy stresses that its information of apparent irregularities is based on hearsay information provided by Eton Park.

119. (C) The Eton Park case can also be explained as one of a growing number of GoA efforts to ensure that strategic national assets remain in Argentine hands. Recent examples include the GoA's state-owned bank financing of a debt re-financing package for Cotos Supermarket in the face of a foreign buy-out offer; the Venezuela-financed rescue package of Argentina's emblematic San Cor Dairy Cooperative in the face of a U.S. Soros Group buy out proposal; and the GoA's current support for the local Eskenazi/Peterson group's efforts to buy a 25% stake in Spanish-owned Argentine energy giant Repsol-YPF (Ref D).

120. (C) Billions in international arbitration claims filed by foreign multinationals in the wake of Argentina's 2001/2 economic collapse are still outstanding (Refs E and F), an object lesson for a Kirchner administration that sees foreign control of key national assets as limiting its ability to mold national economic policy. One prominent energy businessman told us recently that, had Eton Park not tried to structure its deal as it did and rather prepared initially to buy a stake in a clearly Argentine-led entity, the deal may well have proceeded without objections. He cited other more successful infusions of foreign capital from multinationals whose local operations are led by Argentine CEOs. He said the current administration clearly wants to rely more on a "national bourgeoisie" in strategic sectors like energy transmission. Similarly, parliamentarians aligned with Kirchner's Victory Front have recently introduced legislation to limit the ability of foreign "vulture" investment funds to invest in Argentine assets. Kirchner's economic nationalism

seems to play well with his populist support base, which
blames foreign interference in Argentina's economy for the
2001 economic crash and trumpets Argentina's paydown of IMF
outstandings as ensuring the nation remains firmly in control
of its own economic destiny.

WAYNE

=====CABLE ENDS=====